IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL REVISION No. 373 of 2006

M/S BALVEER SINGH
V/S
UNION OF INDIA

Mr. SL JAIN, for the appellant / petitioner

Mr. VK MATHUR, for the respondent

Date of Order : 20.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

By the impugned order, the learned trial Court has dismissed the petitioner's objections on the ground that the present non-petitioner has withdrawn the application filed for making the award 'rule of the Court', and therefore, the award can be straightway executed. A contention has been noticed that the present petitioner has not filed any application for setting aside the award.

It appears that in the memo of revision, some confusion has been raised about the applicability of old provisions and new provisions. However, both the learned counsel are ad idem now that the matter is covered by the New Arbitration Act, 1993 only.

In these circumstances, may be that the present non-petitioner filed application for making the award 'rule

of the Court', and on receiving notice thereof, the petitioner submitted the objections, seeking to challenge the award, and it also remains a fact, that the application filed by the present non-petitioner for making the award 'rule of the Court', has been withdrawn.

But then that is not the end of the matter, inasmuch as, learned counsel for the petitioner has shown me the alleged objections filed on behalf of the petitioner, which is titled as application for setting aside the award, bears Court fees stamp, and does incorporate grounds, on which the award is sought to be challenged. In such circumstances, that could not be taken merely to be the reply, raising objections against the award only, if the present non-petitioner seeks the award 'rule of the Court'. In my view, the application submitted on behalf of the present petitioner fulfills the requirements of Section 34(2) of the New Arbitration Act. In that view of the matter, the learned trial Court was required to decide that application on merits in accordance with law, obviously if the application is within the time permissible by Section 34(3) of the Act.

Accordingly, the impugned order is set aside, and the learned trial Court is directed to decide the application filed by the present petitioner for setting aside the award, treating it as an application under

Section 34(2), and on merits, if it is found to be within the time, prescribed by Section 34(3) of the New Arbitration Act.

The revision petition is, accordingly, partly allowed.

(N P GUPTA),J.

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